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MSK.P-038-2
PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Rosen et al.
Serial No.: 09/960,665
Filing Date: 09/21/2001
For : Methods and Compositions for Degradation and/or Inhibition of HER-Family Tyrosine Kinases

Examiner: B. Kifle
Art Unit: 1624

APPLICANTS' INTERVIEW SUMMARY

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants hereby submit the following summary of an interview between their attorney and the Examiner on July 6, 2005.

Applicants attorney called the Examiner to request the issuance of a new Official Action and a new due date for response for two reasons. First, the Office Action mailed June 27, 2005 contains a rejection of claims that are not presently in this application, and may be incomplete in the rejection under 35 USC § 112, second paragraph. More significantly, however, despite

I hereby certify that this paper and any attachments named herein are transmitted to the United States Patent and Trademark Office, Fax number: 703-872-9306 on July 6, 2005.

Marina T Larson

Marina T. Larson, PTO Reg. No. 32,038

July 6, 2005

Date of Signature

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repeated requests, the Examiner has not considered or commented upon evidence of record in this case which bears on the enablement rejection.¹

Specifically, in the response file March 17, 2003, Applicants attached Exhibit A-H, and these exhibits were discussed in the amendment in Page 3 and 4. These documents show the effectiveness of monomeric ansamycin compounds in treatment of a variety of cancers. Since the claimed invention is essentially a dimer of two ansamycin antibiotics, the efficacy of the claimed compounds against a broad variety of cancers is not placed in doubt by the citation of old cases about difficulty in treating cancer. In the Official Action mailed April 23, 2003 and remailed on May 21, 2003, no comment on these exhibits was made, in the response filed June 21, 2003, Applicants again recounted the significance of the Exhibits and stated (Page 4) that "if the rejection is not withdrawn, the Examiner is requested to provide some meaningful commentary concerning these articles so that the record is complete for Appeal." No comments were provided, however, in the Advisory Action mailed July 31, 2003, so the issue was again raised, and the Exhibits were attached to the Appeal Brief filed October 27, 2003.

Following the Appeal conference, a new Official Action was mailed on February 5, 2004 in which the claims were rejected, but the enablement rejection was not repeated. The enablement rejection was repeated in the Official Action mailed June 25, 2004, however, and it was done as if no prior prosecution had occurred. The exhibits, and the prior arguments were not taken into account. Therefore, in the amendment filed on December 27, 2004, Page 7, Applicants again requested consideration of these evidence and arguments. This consideration was still not indicated in the Official Action of June 27, 2005.

In the telephone conference of July 6, 2005, the Examiner indicated that he would issue a new Official Action, restarting the period for response. He also indicated that this would include a paragraph indicating that he had considered these exhibits. Applicants hope that the Examiner

¹ This same evidence is also of record in the related case, Serial No. 09/937,193, and the same Examiner has refused to even mention the evidence or arguments in that case as well.

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will consider the merits of the arguments and withdraw or modify the enablement rejection accordingly, so that at the very least the arguments can be completely expressed on both sides should further appeal be necessary. However, the Examiner refused to commit to doing so.

Respectfully submitted,

Marina T Larson

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